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[Report No. 106-]

To amend title 49, United States Code, to require motor vehicle manufacturers and motor vehicle equipment manufacturers to obtain information and maintain records about potential safety defects in their foreign products that may affect the safety of vehicles and equipment in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2000

Mr. MCCAIN (for himself, Mr. GORTON, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER —, 2000

Reported by Mr. MCCAIN, with an amendment in the nature of a substitute

[Strike all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 49, United States Code, to require motor vehicle manufacturers and motor vehicle equipment manufacturers to obtain information and maintain records about potential safety defects in their foreign products that may affect the safety of vehicles and equipment in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

[Original text omitted in this version]

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Motor Vehicle and
5 Motor Vehicle Equipment Defect Notification Improve-
6 ment Act”.

7 **SEC. 2. IMPROVED INTERNATIONAL COOPERATION CON-**
8 **CERNING SAFETY-RELATED DEFECTS.**

9 (a) IN GENERAL.—Subchapter I of chapter 301 of
10 title 49, United States Code, is amended by adding at the
11 end the following:

12 **“§ 30106. International cooperation**

13 “(a) IN GENERAL.—The Secretary of Transportation
14 may cooperate with the transportation authorities of for-
15 eign countries to enhance motor vehicle and traffic safety
16 by exchanging information with those authorities related
17 to motor vehicle and motor vehicle equipment safety de-
18 fects, and noncompliance with motor vehicle safety and
19 motor vehicle equipment standards and enforcement of
20 regulations.

21 “(b) CONFIDENTIAL INFORMATION.—The Secretary
22 may authorize the disclosure of confidential commercial
23 information submitted to the National Highway Traffic
24 Safety Administration, or incorporated in agency-prepared

1 records, to a foreign governmental agency that performs
2 functions similar to those performed by the National
3 Highway Traffic Safety Administration as part of cooper-
4 ative law enforcement or regulatory enforcement efforts
5 if—

6 “(1) the Secretary determines that disclosure
7 would be in the interest of improved motor vehicle
8 safety; and

9 “(2) the foreign governmental agency provides
10 a statement in writing to the Secretary that—

11 “(A) establishes the foreign governmental
12 agency’s authority to protect confidential com-
13 mercial information from public disclosure; and

14 “(B) commits the foreign governmental
15 agency not to disclose any such information
16 provided to it under this subsection without the
17 written permission of the person to whom the
18 information relates or a written confirmation
19 from the National Highway Traffic Safety Ad-
20 ministration that the information has otherwise
21 been made available to the public in the United
22 States.

23 “(c) NONPUBLIC INFORMATION.—The Secretary may
24 authorize the disclosure of nonpublic, pre-decisional docu-
25 ments concerning regulations or other regulatory require-

1 ments of the National Highway Traffic Safety Administra-
2 tion or other Federal agencies, and other nonpublic infor-
3 mation relevant to agency activities, to a foreign govern-
4 mental agency that performs functions similar to those
5 performed by the National Highway Traffic Safety Ad-
6 ministration as part of cooperative law enforcement or
7 regulatory activity if—

8 “(1) the Secretary determines that disclosure is
9 reasonably necessary to facilitate motor vehicle safe-
10 ty related cooperative law enforcement or regulatory
11 activity; and

12 “(2) the foreign governmental agency provides
13 a statement in writing to the Secretary that—

14 “(A) establishes the foreign governmental
15 agency’s authority to protect the document or
16 information from public disclosure; and

17 “(B) commits the foreign governmental
18 agency not to disclose any document or infor-
19 mation provided to it under this subsection
20 without a written confirmation from the Na-
21 tional Highway Traffic Safety Administration
22 that it has no objection to disclosure of the doc-
23 ument or that the information has otherwise
24 been made available to the public in the United
25 States.

1 “(d) LIMIT ON DISCLOSURE.—Notwithstanding any
2 other provision of law, a document or information dis-
3 closed under subsection (b) or (c) to a foreign govern-
4 mental agency is not required to be disclosed to the public
5 under section 552 of title 5, United States Code, or any
6 other provision of law, unless the information has other-
7 wise been made available to the public in the United
8 States.”.

9 (b) CLERICAL AMENDMENT.—The chapter analysis
10 for subchapter I of chapter 301 of title 49, United States
11 Code, is amended by adding at the end the following:

“30106. International cooperation”.

12 **SEC. 3. INTERNATIONAL AGREEMENT FOR RECALLS OF**
13 **MOTOR VEHICLES OR MOTOR VEHICLE**
14 **PARTS.**

15 (a) INTERNATIONAL AGREEMENT.—The President is
16 authorized and requested to initiate, within 60 days after
17 the date of the enactment of this Act, negotiations for an
18 international agreement governing the dissemination of in-
19 formation about the recall by manufacturers of motor ve-
20 hicles and motor vehicle equipment with safety-related de-
21 fects. Any such agreement may not enter into force with
22 respect to the United States unless it has been ratified
23 by the United States Senate.

24 (b) PURPOSE.—The purpose of these negotiations
25 shall be to establish an international agreement under

1 which government officials agree to cooperate in fur-
2 thering global transparency with respect to motor vehicle
3 and motor vehicle equipment recalls so as to promote con-
4 sumer safety and to enhance consumer confidence.

5 (c) GUIDELINES.—The international agreement ne-
6 gotiated under subsection (a) should incorporate the fol-
7 lowing provisions:

8 (1) Each signatory will designate a competent
9 authority within its national government as the re-
10 sponsible authority for disseminating, to the public
11 and to other foreign authorities, information about
12 recalls of motor vehicles or motor vehicle equipment.

13 (2) Each signatory will cooperate at the inter-
14 national level through its designated authorities
15 through information exchange, communication, and
16 joint action.

17 (3) Each signatory will make available, to the
18 public and to other governments, through an Inter-
19 net site, at a minimum, the following information:

20 (A) The name, title, and contact informa-
21 tion for the competent authority for motor vehi-
22 cle or motor vehicle equipment recalls.

23 (B) The names of any motor vehicle or
24 motor vehicle equipment manufacturer in its ju-
25 risdiction that has issued a recall, the com-

1 pany's contact information, and the specific
2 motor vehicle or motor vehicle equipment that
3 is the subject of a recall.

4 (C) The country in which the recall is in
5 effect, and the date of the recall.

6 (4) Each signatory, in the interest of getting all
7 relevant information to its competent authority and
8 having the authority share it with the competent au-
9 thorities of other countries, will disseminate widely
10 the final guidelines negotiated to all relevant govern-
11 mental departments, agencies, and branches of gov-
12 ernment.

13 (5) Each signatory that is an advanced indus-
14 trialized country will seek to assist other countries
15 that are signatories to implement the agreement,
16 and to aid efforts by those countries to ensure com-
17 pliance with the agreement.

18 (6) Each signatory will establish a framework
19 to conduct regular oversight and review to assess the
20 operation and effectiveness of the agreement and to
21 create a forum in which each signatory can share
22 with other signatories the laws and regulations it
23 has adopted to implement the agreement.

24 (d) GUIDELINES FOR ENTERPRISES ENGAGED IN
25 TRADE.—The international agreement negotiated under

1 subsection (a) should incorporate the following guidelines
2 on recalls for manufacturers engaged in exporting motor
3 vehicles or motor vehicle equipment or manufacturing
4 motor vehicle equipment for inclusion in motor vehicles to
5 be exported:

6 (1) TRANSPARENCY AND DISCLOSURE.—Each
7 such manufacturer should disclose all relevant infor-
8 mation regarding any recall it undertakes to the
9 competent authority in the country in which it initi-
10 ates the recall and to the competent authority in the
11 country in which it is incorporated. The information
12 should be extensive enough to facilitate public notice
13 described in subsection (c)(3).

14 (2) CONSUMER INTERESTS.—Each such manu-
15 facturer should, to the greatest extent practical,
16 make consumers aware of recalls of its motor vehi-
17 cles or motor vehicle equipment.

18 (3) COOPERATION WITH REGULATORY AU-
19 THORITIES.—Each such manufacturer should co-
20 operate promptly with the national authorities in
21 any country that is requesting information about a
22 motor vehicle or motor vehicle equipment recall in
23 an effort to safeguard consumer safety.

24 (e) PROVISIONS RELATED TO THE UNITED
25 STATES.—

1 (1) IN GENERAL.—The Secretary of Transpor-
2 tation shall be the competent authority for the
3 United States.

4 (2) COORDINATION.—In carrying out the role
5 of competent authority, the Secretary shall coordi-
6 nate with and draw on the expertise of the Depart-
7 ment of State, the Office of the United States Trade
8 Representative, and the National Highway Traffic
9 Safety Administration.

10 (3) INTERNET AVAILABILITY.—Until the Presi-
11 dent concludes the negotiations authorized by this
12 section and there is an international Internet data-
13 base that contains the information described in sub-
14 section (c)(3), the Secretary shall establish an offi-
15 cial Department of Transportation website on the
16 Internet providing that information to the greatest
17 extent possible when a recall involves motor vehicles
18 or motor vehicle equipment that is offered for sale
19 inside and outside the United States, and shall post
20 information provided to the Secretary by United
21 States embassies about recalls of motor vehicles or
22 motor vehicle equipment in the country in which the
23 embassy is located that is offered for sale in the
24 United States.

1 (4) COORDINATED FEDERAL STRATEGY.—The
2 Secretary of State shall establish procedures by
3 which United States embassies and consular offices
4 abroad will inform the Secretary of Transportation
5 whenever the Ambassador, commercial attache, or
6 other representative of the United States receives in-
7 formation about an impending or announced recall
8 of motor vehicles or motor vehicle equipment. The
9 Secretary of Transportation shall notify the Senate
10 Committee on Commerce, Science, and Transpor-
11 tation and the House or Representatives Committee
12 on Commerce whenever the Secretary receives such
13 information.

14 (f) NO DIMINUTION OF UNITED STATES STAND-
15 ARDS.—Nothing in this section authorizes any diminution
16 or weakening of any Federal Motor Vehicle Safety Stand-
17 ard under chapter 301 of title 49, United States Code,
18 or any other provision of law, whether in effect on the
19 date of enactment of this Act or promulgated after that
20 date.

21 **SEC. 4. DEFECT AND NONCOMPLIANCE NOTIFICATION FOR**
22 **OEM EQUIPMENT.**

23 Section 30118 of title 49, United States Code, is
24 amended by striking “motor vehicle or replacement equip-
25 ment” in subsections (a), (b), and (c) and inserting

1 “motor vehicle, original equipment, or replacement equip-
2 ment”.

3 **SEC. 5. EXTENSION OF TIME FOR NO-CHARGE REMEDIES.**

4 Section 30120(g)(1) of title 49, United States Code,
5 is amended—

6 (1) by striking “8 calendar years,” and insert-
7 ing “10 calendar years,”; and

8 (2) by striking “3 calendar years,” and insert-
9 ing “5 calendar years,”.

10 **SEC. 6. ENHANCED INFORMATION REPORTING.**

11 Section 30118 of title 49, United States Code, is
12 amended—

13 (1) by redesignating subsections (d) and (e) as
14 subsections (e) and (f); and

15 (2) by inserting after subsection (c) the fol-
16 lowing:

17 “(d) ENHANCED REPORTING OF INFORMATION.—

18 “(1) RULEMAKING REQUIRED.—No later than
19 120 days after the date of enactment of the Motor
20 Vehicle and Motor Vehicle Equipment Defect Notifi-
21 cation Improvement Act, the Secretary of Transpor-
22 tation shall initiate a rulemaking proceeding to es-
23 tablish increased reporting requirements and record
24 retention for manufacturers of motor vehicles and

1 motor vehicle equipment to enhance the Secretary's
2 ability to carry out the provisions of this chapter.

3 “(2) DEADLINE.—The Secretary shall issue a
4 final rule under paragraph (1) not later than June
5 30, 2002.

6 “(3) DATA COVERED.—

7 “(A) REQUIRED DATA.—In carrying out
8 this subsection, the Secretary shall require
9 manufacturers to collect and report to the Sec-
10 retary periodically, or upon request by the Sec-
11 retary, the following information derived from
12 domestic and foreign sources:

13 “(i) Accidents or incidents, or trends
14 or patterns of accidents or incidents, in-
15 volving motor vehicles, motor vehicle equip-
16 ment, or motor vehicle equipment compo-
17 nents or systems manufactured by that
18 manufacturer that result in fatalities, seri-
19 ous injuries, or fires.

20 “(ii) Any 3 or more lawsuits in which
21 the manufacturer is a defendant involving
22 the same, or a substantially similar, al-
23 leged defect.

24 “(iii) Customer satisfaction cam-
25 paigns, consumer advisories, recalls, or

1 other activity involving the repair or re-
2 placement of motor vehicles or items of
3 motor vehicle equipment.

4 “(iv) Warranty or adjustment data re-
5 ceived by the manufacturer.

6 “(B) POTENTIAL DATA.—In carrying out
7 this subsection, the Secretary shall consider re-
8 quiring manufacturers to collect and report to
9 the Secretary periodically, or upon request by
10 the Secretary, the following information derived
11 from domestic and foreign sources:

12 “(i) Consumer complaints.

13 “(ii) Safety-related information relat-
14 ing to actual or potential defects not other-
15 wise collected or reported.

16 “(iii) The number or other identifying
17 characteristic for motor vehicle equipment
18 sold by that manufacturer.

19 “(iv) Communications between the
20 manufacturer and dealers, or other infor-
21 mation made available by the manufac-
22 turer to dealers, relating to motor vehicle
23 or motor vehicle equipment safety-related
24 defects or recalls.

1 “(4) INSURANCE.—No later than 120 days
2 after the date of enactment of the Motor Vehicle and
3 Motor Vehicle Equipment Defect Notification Im-
4 provement Act, the Secretary shall initiate a rule-
5 making proceeding to establish enhanced aggregate
6 information reporting requirements under this chap-
7 ter for persons in the business of providing motor
8 vehicle insurance or of adjusting motor vehicle insur-
9 ance claims. The Secretary shall issue a final rule
10 under this paragraph not later than June 30, 2002.

11 “(5) CONFIDENTIALITY.—Nothing in this sub-
12 section provides an exception from section 30167(a)
13 for information received by the Secretary under the
14 rulemaking required by this subsection.”.

15 **SEC. 7. SCHOOL BUSES.**

16 Section 30125 of title 49, United States Code, is
17 amended by adding at the end the following:

18 “(d) SUSPENSION OF OPERATIONS FOR IMMINENT
19 HAZARD.—The Secretary may issue an order directing
20 any person that operates a school bus to suspend oper-
21 ation of the school bus as a school bus if the Secretary
22 determines that there is a defect or noncompliance that
23 presents an imminent hazard to passenger safety if the
24 school bus continues operation before the defect or non-
25 compliance is remedied.”.

1 **SEC. 8. COMMERCIAL PASSENGER VEHICLES.**

2 (a) IN GENERAL.—Subchapter II of chapter 301 of
3 title 49, United States Code, is amended by adding at the
4 end thereof the following:

5 **“§ 30128. Commercial passenger vehicles**

6 “The Secretary of Transportation may issue an order
7 directing any person that operates a motor vehicle used
8 to transport passengers for compensation to suspend oper-
9 ation of the vehicle to transport passengers for compensa-
10 tion if the Secretary determines that there is a defect or
11 noncompliance that presents an imminent hazard to pas-
12 senger safety if the vehicle continues such operation before
13 the defect or noncompliance is remedied.”.

14 (b) CLERICAL AMENDMENT.—The chapter analysis
15 for subchapter II of chapter 301 of title 49, United States
16 Code, is amended by adding at the end the following:

“30128. Commercial passenger vehicles”.

17 **SEC. 9. PENALTIES.**

18 (a) CIVIL PENALTIES.—Section 30165(a) of title 49,
19 United States Code, is amended to read as follows:

20 “(a) IN GENERAL.—A person that violates any of
21 sections 30112, 30115, 30117 through 30122, 30123(d),
22 30125(c) or (d), 30126(b), 30127, 30128, 30141 through
23 30147, or 30166, or a regulation prescribed thereunder,
24 is liable to the United States Government for a civil pen-
25 alty of not more than \$5,000 per day for each violation.

1 A separate violation occurs for each motor vehicle or item
2 of motor vehicle equipment and for each failure or refusal
3 to allow or perform an act required by any of those sec-
4 tions. The maximum penalty under this paragraph for a
5 related series of violations is \$15,000,000, except that no
6 such maximum applies in the case of a willful and inten-
7 tional violation.”.

8 (b) CRIMINAL PENALTIES.—

9 (1) IN GENERAL.—Subchapter IV of chapter
10 301 of title 49, United States Code, is amended by
11 adding at the end the following:

12 **“§ 30170. Criminal penalties**

13 “(a) ACTS PROHIBITED.—It is unlawful for a direc-
14 tor, officer, or agent of a manufacturer that introduces
15 a motor vehicle or motor vehicle equipment into interstate
16 commerce to authorize, order, or ratify the introduction
17 if the director, officer, or agent knew that—

18 “(1) at the time of introduction the manufac-
19 turer was in violation of section 30112(a)
20 or 30118(c) with respect to that motor vehicle or
21 motor vehicle equipment;

22 “(2) the condition of the motor vehicle or motor
23 vehicle equipment that is the subject of that viola-
24 tion created a serious danger of death or grievous
25 bodily harm; and

1 “(3) the condition described in paragraph (2)
2 caused death or grievous bodily harm.

3 “(b) PENALTIES.—Violation of subsection (a) is pun-
4 ishable by—

5 “(1) a fine of not more than \$10,000, imprison-
6 ment for not more than 5 years, or both, if the viola-
7 tion resulted in grievous bodily harm; and

8 “(2) a fine of not more than \$50,000, imprison-
9 ment for not more than 15 years, or both, if the vio-
10 lation resulted in death.

11 “(c) COORDINATION WITH DOJ.—Before authorizing
12 a United States Attorney to bring an action, or initiate
13 grand jury proceedings, for a violation of subsection (a)
14 or (b), the Attorney General shall consult with the Sec-
15 retary of Transportation.”.

16 (2) CLERICAL AMENDMENT.—The subchapter
17 analysis for subchapter IV of chapter 301 of title
18 49, United States Code, is amended by adding at
19 the end the following:

“30170. Criminal penalties”.

20 **SEC. 10. RECORDS AND REPORTS.**

21 (a) RECORDKEEPING AND REPORTING REQUIRE-
22 MENTS.—Section 30166(e) of title 49, United States
23 Code, is amended to read as follows:

24 “(e) RECORDS AND REPORTS.—The Secretary of
25 Transportation is authorized to require a manufacturer of

1 a motor vehicle or motor vehicle equipment to keep
2 records, and a manufacturer, distributor, or dealer to
3 make reports, to enable the Secretary to decide whether
4 the manufacturer, distributor, or dealer has complied or
5 is complying with this chapter or a regulation prescribed
6 or order issued under this chapter. This subsection does
7 not impose a recordkeeping requirement on a distributor
8 or dealer in addition to those imposed under subsection
9 (f) of this section and section 30117(b) or a regulation
10 prescribed or order issued under subsection (f) or section
11 30117(b).”.

12 (b) DEFINITIONS.—Section 30166(a) of title 49,
13 United States Code, is amended to read as follows:

14 “(a) DEFINITIONS.—Notwithstanding section
15 30102(a), in this section:

16 “(1) MOTOR VEHICLE ACCIDENT.—The term
17 ‘motor vehicle accident’ means an occurrence associ-
18 ated with the maintenance or operation of a motor
19 vehicle or motor vehicle equipment resulting in per-
20 sonal injury, death, or property damage.

21 “(2) DEALER.—The term ‘dealer’ means a per-
22 son selling and distributing new motor vehicles or
23 motor vehicle equipment, inside or outside the
24 United States, primarily to purchasers that in good

1 faith purchase the vehicles or equipment other than
2 for resale.

3 “(3) DISTRIBUTOR.—The term ‘distributor’
4 means a person primarily selling and distributing
5 motor vehicles or motor vehicle equipment, inside or
6 outside the United States, for resale.

7 “(4) MANUFACTURER.—The term
8 ‘manufacturer’—

9 “(A) means a person—

10 “(i) manufacturing or assembling
11 motor vehicles or motor vehicle equipment;
12 or

13 “(ii) importing motor vehicles or
14 motor vehicle equipment for resale; and

15 “(B) includes—

16 “(i) a person incorporated within or
17 with its principal place of business in the
18 United States and its direct and indirect
19 domestic and foreign subsidiaries and af-
20 filiates;

21 “(ii) a person with its principal place
22 of business in a foreign country, including
23 its direct or indirect domestic and foreign
24 subsidiaries and affiliates, any of which ex-

1 ports motor vehicles or motor vehicle
2 equipment into the United States; and

3 “(iii) a person with its principal place
4 of business in a foreign country, including
5 its direct or indirect domestic and foreign
6 subsidiaries and affiliates, any of which
7 manufactures or assembles motor vehicles
8 or motor vehicle equipment in the United
9 States.

10 “(5) OWNER.—The term ‘owner’ means an
11 owner inside or outside the United States.

12 “(6) PURCHASER.—The term ‘purchaser’
13 means a purchaser inside or outside the United
14 States.

15 “(7) PERSON.—The term ‘person’ means any
16 manufacturer, distributor, or dealer and any other
17 person within the United States that may have in-
18 formation related to this chapter.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section take effect 180 days after the date of enact-
21 ment of this Act.

22 **SEC. 11. INCREASE IN ODOMETER PENALTIES.**

23 (a) CIVIL PENALTY.—Section 32709(a)(1) of title
24 49, United States Code, is amended—

1 (1) by striking “\$2,000” and inserting
2 “\$5,000”; and

3 (2) by striking “\$100,000.” and inserting
4 “\$1,000,000.”.

5 (b) PRIVATE CIVIL ACTIONS.—Section 32710(a) of
6 title 49, United States Code, is amended by striking
7 “\$1,500,” and inserting “\$10,000.”.

8 **SEC. 12. REVISED TIRE SAFETY STANDARDS.**

9 Within 30 days after the date of enactment of this
10 Act, the Secretary of Transportation shall initiate a rule-
11 making proceeding to review and revise as necessary the
12 motor vehicle safety standards for pneumatic tires pre-
13 scribed under chapter 301 of title 49, United States Code.
14 The Secretary shall complete the rulemaking no later than
15 June 1, 2002.

16 **SEC. 13. IMPROVED TIRE SIDEWALL MARKINGS.**

17 Within 30 days after the date of enactment of this
18 Act, the Secretary of Transportation shall initiate a rule-
19 making proceeding to improve the labelling of tires re-
20 quired by section 30123 of title 49, United States Code,
21 to facilitate improved public understanding of load limits
22 and appropriate tire inflation levels. The Secretary shall
23 complete the rulemaking not later than June 1, 2002. The
24 Secretary shall also take whatever additional action is ap-
25 propriate to ensure that the public is aware of the impor-

1 tance of observing motor vehicle tire load limits and main-
2 taining proper tire inflation levels to the safe operation
3 of a motor vehicle.

4 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

5 Section 30104 of title 49, United States Code, is
6 amended to read as follows:

7 **“§ 30104. Authorization of appropriations**

8 “There are authorized to be appropriated to the Sec-
9 retary of Transportation, out of the Highway Account of
10 the Highway Trust fund, \$115,954,000 for the National
11 Highway Traffic Safety Administration to carry out this
12 chapter in fiscal year 2001.”.

○